

### **REMARKS**

Claims 1-25, 27-34, 36-28 and 63-74 are pending in this application. The independent claims and a number of the dependent claims have been amended to more particularly point out and distinctly claim the method, apparatus, transponder, information system and integrated circuit and to address various typographical and stylistic issues. No new matter has been introduced by way of these amendments.

#### **Claim Objections**

The Office Action objects to claims 30. In the interest of furthering prosecution, amended claim 30 now recites: "wherein said arbitration command is a Query command." The Applicant believes that the above mentioned claim is in the appropriate condition to overcome the claim objections outlined on page 2 of the current Office Action.

#### **Rejections under 35 U.S.C. § 112**

The Office Action rejects claims 1-17 and 31-32 under 35 U.S.C § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the interest of furthering prosecution, claims 1, 2 and 31 have been amended to provide adequate antecedent basis. The Applicant believes that the above mentioned claims are in the appropriate condition to overcome the 35 U.S.C. § 112 rejection outlined on pages 2 and 3 of the current Office Action.

#### **Rejections under 35 U.S.C. § 102 and § 103**

The Office Action rejects Claims 1-4, 9-20, 23-25, 27-34, 36-38, 63, and 66-74 under 35 U.S.C. § 102(b) as being unpatentable over European Patent No. 0702323 A2 to Chan. Claims 5-8, 21-22 and 64-65 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chan in view of U.S. Patent 6,880,050 by Korger. The Applicant respectfully traverses these rejections for at least the following several reasons.

Specifically, each of independent claims recites aspects that are not taught, motivated, or suggested by Chan or Korger. For example, the independent claims (and the claims that depend therefrom) emphasize that one or more groups of transponders set or reset a select flag dependent on whether they are to be selected or de-selected and participate in an arbitration sequence, in response to an arbitration command, based on whether the select flag is set or reset. See, for example, at least Figures 5 and/or 6.

The cited references, Chan and Kroger, do not anticipate or render obvious the select command or the arbitration command of the claims. Further, neither reference discloses both the select command the arbitration command as claimed. In particular, Chan discloses in his col 4, lines 14-17, that "a group select command can be used to select the subgroup (for example, 210) from the tag group 150 and move it to a selected state..." The Chan reference is implemented using a simple state machine and thus the group select command causes a state change from a READY state to a SELECTED state. Chan Col 7, lines 8-11. "... [T]ags remaining in the SELECTED state after processing a group select or group unselect command would transmit back to the base station." Chan Col 9, lines 55-60. It is the group select command in Chan that not only selects or unselects a particular group of tags, but it is the group select command that also causes those selected tags to communicate with the base station. The group select command is unlike the select command in the claims.

Further and with reference to Chan, even if the group select command anticipated the select command in the claims, which it does not, there is no teaching of an additional command, namely an arbitration command as is recited in the claims in Chan. Chan is silent on arbitration and there is no mention in Chan of an arbitration sequence as claimed. Indeed, a careful review of Chan indicates the only command disclosed is the group select/unselect command. Therefore, Chan fails to teach or suggest the arbitration command and therefore also fails to teach or suggest the one or more groups of transponders participate in an arbitration sequence, in response to an arbitration command, based on the selection or de-selection criteria as recited in claim 1.

Finally, each element of the claim must be treated as an independent constituent part. In particular, the group select/unselect command cannot be used to simultaneously anticipate or render obvious both the select command and the arbitration command of the claims. *Lantech*,

*Inc. v. Keip Machine Co.*, 32 F.3d 542 (Fed. Cir. 1994). Each of the select command and the arbitration command, as defined by claim 1, is distinct from each other. Thus, even if the group select command of Chan could anticipate the select command or the arbitration command, which is incorrect, the group select command cannot simultaneously function as both the select command and the arbitration command. *Id.* At 547 (“when a claim requires two separate elements, one element construed as having two separate functions will not suffice to meet the terms of the claim.”). Therefore for at least these reasons, the independent claims and the claims that depend therefrom overcome the anticipation rejections outlined in the Office Action.

Korger does not teach or suggest the select command and/or the arbitration command that noticeably are missing from Chan. Kroger has not be cited for teaching or suggesting these elements, because Korger is directed to synchronizing queuing between two clock domains and is unrelated to the selection and arbitration of tags. Therefore for at least these reasons 5-8, 21-22 and 64-65 are allowable over the cited references.

Because there is no teaching or suggestion in Chan or Korger alone or in combination of “one or more groups of transponders set or reset a select flag dependent on whether they are to be selected or de-selected and participate in an arbitration sequence, in response to an arbitration command, based on whether the select flag is set or reset” in the manner set forth by the independent claims, it follows that no combination of these references teach or suggest the same claim recitations. Therefore, the independent claims are not taught or suggested by Chan or Korger, taken alone or in any proper combination, such that the § 102 rejection of the independent claims (and any § 103 rejection) as well as the claims which depend therefrom, is overcome and the claims are in condition for allowance.

#### **CONCLUSION**

In view of the amended claims and the remarks presented above, the Applicant submits that the claims are in condition for immediate allowance. As such, the issuance of a Notice of Allowance is respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants’ undersigned attorney in order to resolve any remaining issues.

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The patentability of the independent claims has been argued as set forth above and thus Applicants will not take this opportunity to argue the merits of the rejection with regard to the dependent claims. However, Applicant does not concede that the dependent claims are not independently patentable and reserve the right to argue the patentability of the dependent claims at a later date if necessary.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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